

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

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MARK R. MARINO,

Plaintiff,

vs.

UNITED STATES INTERNAL  
REVENUE SERVICE,

Defendant,

2:09-cv-667-GMN-RJJ

REPORT AND RECOMMENDATION  
OF UNITED STATES  
MAGISTRATE JUDGE

This matter is before the Court to determine the state of the case. Upon review the Court finds:

1. Plaintiff Mark R. Marino filed a Petition to Quash IRS Summons (#1) on April 14, 2009.
2. Plaintiff has not paid a filing fee and has not filed an Application to Proceed *In Forma Pauperis*.
3. Plaintiff has made no attempt to serve defendants in this case.
4. Plaintiff has take no action in this case since April 14, 2009, and appears to have abandoned this litigation

Based on the foregoing and good cause appearing therefore,

**RECOMMENDATION**

IT IS THE RECOMMENDATION of the undersigned Magistrate Judge that this case be **DISMISSED WITH PREJUDICE.**

**NOTICE**

Pursuant to Local Rule IB 3-2 [former LR 510-2] any objection to this Report and Recommendation must be in writing and filed with the Clerk of the Court within fourteen (14) days after service of this Notice. The Supreme Court has held that the courts of appeal may determine that an appeal has been waived due to the failure to file objections within the specified time. Thomas v. Arn, 474 U.S. 140 (1985), reh'g denied, 474 U.S. 1111 (1986). This Circuit has also held that (1) failure to file objections within the specified time and (2) failure to properly address and brief the objectionable issues waives the right to appeal the District Court's order and/or appeal factual issues from the order of the District Court. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991); Britt v. Simi Valley United Sch. Dist., 708 F.2d 452, 454 (9th Cir. 1983).

DATED this 24<sup>th</sup> day of February, 2011.

  
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ROBERT J. JOHNSTON  
United States Magistrate Judge